

Message Text

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ACTION DLOS-09

INFO OCT-01 IO-13 ISO-00 FEA-01 ACDA-07 AGRE-00 AID-05
CEA-01 CEQ-01 CG-00 CIAE-00 EPG-02 COME-00
DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05 FMC-01
TRSE-00 H-01 INR-07 INT-05 JUSE-00 L-03 NSAE-00
NSC-05 NSF-01 OES-07 OMB-01 PA-01 PM-04 PRS-01
SP-02 SS-15 USIA-06 AF-10 ARA-10 EA-07 EUR-12
NEA-10 /162 W

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R 081704Z JUL 77
FM USMISSION USUN NEW YORK
TO SECSTATE WASHDC 4394

C O N F I D E N T I A L SECTION 1 OF 2 USUN 2179

FROM LOS DEL

E.O. 11652: GDS
TAGS: PLOS
SUBJECT: LOS SITREP - JULY 6, 1977

1. COMMITTEE I - THE WORKING RELATIONSHIP BETWEEN
COMMITTEE I CHAIRMAN ENGO AND MINISTER EVENSEN THREATENED
TO BREAK DOWN BRIEFLY ON JULY 6. ENGO REPORTEDLY BECAME
UPSET WHEN EVENSEN RESUMED CONTROL OF THE COMMITTEE I
NEGOTIATING GROUP JULY 5, FOLLOWING A WEEK'S ABSENCE,
WITHOUT CONSULTING ENGO. ENGO REACTED BY REMOVING ENVENSEN
FROM HIS LEADERSHIP POSITION AND INSTALLING VICE CHAIRMAN
THOMSEN-FLORES (BRAZIL) TO RUN COMMITTEE I MEETINGS ON
JULY 6. BY THE END OF THE DAY, HOWEVER, ENGO AND EVENSEN
HAD APPARENTLY PATCH UP THEIR DIFFERENCES, AND THE LATTER
WAS BACK IN THE CHAIR ON JULY 7.

2. THOMSEN-FLORES LED THE CONTINUATION OF THE DISCUSSION ON
FINANCIAL ARRANGEMENT JULY 6. AS ON THE PREVIOUS DAY, THE DEBATE
WAS DOMINATED BY INDIA, PAPUA-NEW GUINEA AND CHILE ON ONE
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SIDE AND US, UK AND FRG ON THE OTHER. IT IS CLEAR FROM
THESE MEETINGS AS WELL AS FROM PRIVATE CONTACTS, THAT
AT MOST A HANDFUL OF G-77 DELEGATES HAVE KNOWLEDGE
OF AND INTEREST IN IN THE NUTS AND BOLTS OF THIS TECHNICAL
SUBJECT. ALTHOUGH INDIA IMPRESSED MANY G-77 DELEGATES
WITH ITS EARLY PROPOSALS ON FINANCIAL ARRANGEMENTS, THE
PAPUA NEW GUINEA DELEGATE (DABB, WHO IS ACTUALLY AN

AUSTRALIAN CITIZEN) APPEARS IN RECENT DAYS TO BE TAKING A LEADING ROLE ON THESE ISSUES.

3. THE DISCUSSION IN THE FULL COMMITTEE RESULTED IN A RECITAL OF FAMILAR VIEWPOINTS. THE US, UK AND FRG AGAIN CRITICIZED THE BAILEY PAPER FOR FAILING TO PROVIDE A COHERENT SYSTEM OF REVENUE SHARING, FOR IMPLYING EXCESSIVE FRONT-END COSTS, FOR NOT APPLYING FINANCIAL ARRANGEMENTS EQUALLY TO THE ENTERPRISE, AND FOR NOT RESTRICTING REVENUE SHARING TO MINE SITE OPERATIONS. PAPUA NEW GUINEA, INDIA AND CHILE SUPPORTED FIXED MINING CHARGES AND ROYALTIES ALONG THE LINES OF THE INDIAN PROPOSAL, AND INSISTED THAT NET PROCEEDS SHOULD BE BASED ON PROCESSING AS WELL AS MINING STAGES OF OPERATIONS.

4. MEANWHILE, BAILEY'S A(AUSTRALIA) TECHNICAL GROUP ON FINANCIAL ARRANGEMENT HAS SPAWNED A PRIVATE NEGOTIATING CELL CONSISTING OF THE US, PAPUA NEW GUINEA,, CHILE AND BRAZIL, UNDER BAILEY'S LEADERSHIP. THIS SMALLER CONTACT GROUP HAS BEEN ENGAGING IN INTENSIVE DISCUSSIONS IN SEARCH OF A COMPROMISE TEXT THAT THE LARGER TECHNICAL WORKING GROUP COULD ACCEPT AND THAT COULD FIND ITS WAY INTO AMERASINGHE'S COMPOSITE TEXT. BAILEY CONTINUES TO SHOW A LACK OF UNDERSTANDING OF HOW TO APPROACH FINANCIAL ARRANGEMENTS AS A TECHNICAL RATHER THAN POLITICAL ISSUE. CONFIDENTIAL

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HE PREFERS TO TAKE VARIOUS PROPOSALS AND SPLIT THE DIFFERENCES, WITHOUT REGARD TO ECONOMIC SOUNDNESS OF SUCH A COMPROMISE ALTERNATIVE. THUS, THE GOING HAS BEEN ROUGH WITH NO MAJOR BREAKTHROUGHS TO RECORD YET.

5. COMMITTEE II - CONSULTATIVE GROUP III (DELIMINATION) CONVENED THIS MORNING IN WHAT WAS PROBABLY ITS LAST MEETING OF THIS SESSION. THE PROCEEDING GENERALLY REFLECTED THE MUTAL INTRANSIGENCE CHARACTERISTIC OF PAST DISCUSSIONS. MOROCCO SUBMITTED AN AMENDED VERSION OF ITS FORMER PROPOSAL WHICH AGAIN ELICITED LITTLE SUPPORT.

6. TWO SIGNIFICANT DEVELOPMENTS RESULTED FROM THE MEETING. PORTUGAL INTRODUCED (AT THE BEHEST AND AS A SURROGATE FOR CANADA) AMENDMENTS TO PARAS 1 AND 3 OF THE 21-POWER DRAFT PROPOSAL (WHICH ITSELF WAS A MINOR REVISION OF THE EARLIER CANADIAN/SPANISH AMENDMENTS) ON ARTICLES 62 AND 71. IN PARA 1, THE SUGGESTED AMENDMENT WOULD ADD: QTE IN ORDER TO REACH A RESULT IN ACCORDANCE WITH EQUITABLE PRINCIPLES UNQTE; IN PARA 3, THE FOLLOWING INJUNCTION OR CAVEAT WOULD BE APPENDED TO THE PRESENT TEXT: QTE NO MEASURE OF RESTRAINT OR EXERCISE OF JURISDICTION PENDING AGREEMENT

SHALL AFFECT OR PREJUDICE THE POSITION OF EITHER PARTY
IN THE DISPUTE, WHETHER IN FURTHER NEGOTIATION OR THIRD
PARTY SETTLEMENT PROCEDURES . UNQTE.

7. THE INGREDIENTS OF A POSSIBLE COMPROMISE FORMULATION
ON DELIMITATION WERE OUTLINED SOMEWHAT SUMMARILY AND
PARENTHETICALLY BY CANADA AND CYPRUS, TWO VIGOROUR
EXPONENTS OF EQUIDISTANCE/MEDIAN LINE. AS OUTLINED, THE
HYPOTHETICAL COMPROMISE COULD BE BASED UPON THE
FULFILLMENT OF ONE OF TWO FUNDAMENTAL CONDITIONS: (1) THE
INCLUSION OF QTE VAGUE, AMBIGUOUS PROVISIONS UNQTE,

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TRSE-00 H-01 INR-07 INT-05 JUSE-00 L-03 NSAE-00
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C O N F I D E N T I A L SECTION 2 OF 2 USUN 2179

FROM LOS DEL

(READ EQUITABLE PRINCIPLES, RELEVANT CIRCUMSTANCES) IN
PARA 1 OF ARTICLES 62 AND 71, COUPLED WITH IRON-CLAD
PROVISIONS FOR COMPULSORY DISPUTES SETTLEMENT IN PARA 2.
OR (2) QTE STRONG, UNAMBIGUOUS PROVISIONS UNQTE IN PARA 1
(READ EQUIDISTANCE, MEDIAN LINE) COMBINED WITH AN OPTIONAL
OR WEAK DISPUTE SETTLEMENT CLAUSE IN PARA 2.

6. FINALLY THE CHAIRMAN (JACHEK) SUGGESTED EACH FACTION
TO DESIGNATE TWO OR THREE OF ITS MEMBERS TO FORM AN
UNOFFICIAL, INFORMAL CONSULTATIVE GROUP TO ATTEMPT TO
RECONCILE THE DISPARATE PROPOSALS WHICH HAVE THUS FAR BEEN
FORMULATED. IT IS NOT RPT NOT CLEAR IF SUCH A GROUP WILL
BE ESTABLISHED.

9. AMBASSADOR AGUILAR CONVENED A SMALL GROUP ON STRAITS IN ORDER TO GIVE AN OPPORTUNITY TO CERTAIN STATES WITH PROBLEMS REGARDING THE RSNT TO PUT FORTH THEIR VIEWS. STATES INVITED WERE: THE U.S., USSR, UK, FRANCE, FRG, JAPAN, ITALY, SWEDEN, DENMARK, LIBERIA, CANADA, MOROCCO, CONFIDENTIAL

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SPAIN, MALAYSIA, INDONESIA, EGYPT, OMAN, YEMEN, DEMOCRATIC YEMEN, SOMALIA, YUGOSLAVIA, CHILE, FINLAND AND ARGENTINA. IN ADDITION, GREECE, TANZANIA, ISRAEL AND LUXEMBURG ATTENDED. THE SLATE NOTED BELOW WERE THE ONLY SPEAKERS.

10. SPAIN STATED THE NEED TO EXPAND THE PROVISIONS REGARDING STRAITS STATES RIGHTS AND THE CONDITIONS OF PASSAGE. THEY DISCUSSED THEIR AMENDMENTS THAT HAD PREVIOUSLY BEEN CIRCULATED THIS SESSION. THESE AMENDMENTS MAKE TRANSIT PASSAGE QUITE SIMILAR TO INNOCENT PASSAGE AND EXCLUDE THE RIGHT OF OVERFLIGHT. TANZANIA FELT THAT AIRCRAFT SHOULD BE EXCLUDED FROM TRANSIT PASSAGE AND THAT THERE SHOULD BE A SPECIAL REGIME FOR A LIMITED NUMBER OF STRAITS, E.G. 5 TO 10 (RATHER THAN A GENERAL TRANSIT PASSAGE REGIME).

11. MOROCCO SUGGESTED AMENDMENTS WHICH WERE SIMILAR TO SPAIN'S ALTHOUGH THEY PERMITTED OVERFLIGHT SUBJECT TO MAJOR RESTRICTIONS. EGYPT PROPOSED DELETING PARA 2 OF ARTICLE 43. YUGOSLAVIA SUGGESTED ADDING AT THE END OF ARTICLE 25 "IN SUCH A ROUTE FREEDOM OF NAVIGATION AND OVERFLIGHT SHALL BE MAINTAINED UNIMPEDED." GREECE PROPOSED RESTRICTIONS ON OVERFLIGHT.

12. UKRAINIAN SSR APPEALED TO ALL DELEGATES TO SEARCH FOR AGREEMENT ON THE PRINCIPLES CONTAINED IN THE RSNT. HOWEVER, THEY INDICATED THAT WHILE SOME MOROCCAN AMENDMENTS WERE REASONABLE, OTHERS CLEARLY WERE NOT. UK STATED THAT THE RSNT WAS A REASONABLE BALANCE OF INTEREST, WHILE SPAIN'S AMENDMENTS WERE NOT.

13. AT THE END OF THE MEETING, SPAIN ASKED THE
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MARTIME STATES TO CONSIDER THEIR VIEWS. AGUILAR, ANXIOUS TO ADJOURN THE MEETING, ENCOURAGED STATES TO DISCUSS THE ISSUES BILATERALLY OR OTHERWISE. HE VIEWS THE ISSUE AS ESSENTIALLY/HOPEFULLY CLOSED.

14. COMMITTEE III - PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT. THE INFORMAL WORKING GROUP UNDER CHAIRMAN VALLARTA (MEXICO) CONTINUED DISCUSSION OF ARTICLE 19 (ESTABLISHMENT OF RULES AND STANDARDS TO PREVENT POLLUTION FROM DEEP SEABED MINING.) THE U.S.

INTRODUCED AN AMENDMENT TO ITS PREVIOUS PROPOSAL INTENDED TO EXCLUDE VESSELS USED IN TRANSPORT AND INCLUDE ONLY INSTALLATIONS, STRUCTURES AND VESSELS ACTUALLY ENGAGED IN MINERAL EXPLOITATION ACTIVITIES. THIS AMENDMENT RECEIVED SOME SUPPORT IN PRINCIPLE BUT WAS CRITICIZED BY THE USSR, INDIA AND OTHER FOR CREATING A POTENTIAL CONFLICT BETWEEN THE SEABED AUTHORITY AND IMOCO AND FOR EXCLUDING OTHER SOURCES OF VESSEL POLLUTION FROM MINING VESSELS WHILE NOT ENGAGED IN MINING ACTIVITIES. THE CHAIRMAN ASKED THE U.S. TO ATTEMPT ANOTHER DRAFT TAKING INTO ACCOUNT SEVERAL SUGGESTED AMENDMENTS. THE FRENCH PROPOSAL TO SPECIFY IN ARTICLES 20, 26 AND 38 THAT INCINERATION AT SEA BE TREATED AS OCEAN DUMPING RECEIVED SOME SUPPORT BUT SUBSTANTIAL OPPOSITION FROM CANADA, U.S., NORWAY, SPAIN, BRAZIL, AND OTHERS. THE LATTER DELEGATIONS ARGUED THAT INCINERATION WAS ALREADY COVERED BY THE TERM OCEAN DUMPING.

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